

***United States Court of Appeals
for the Second Circuit***



APPELLEE'S BRIEF

1510

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P/S

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

1934

SECURITIES AND EXCHANGE COMMISSION,

Appellee.

THOMAS JOSEPH HARRIS,

Appellant.

vs.

THOMAS JOSEPH HARRIS,

Appellant-Appellee.



Appeal from the United States District Court
for the Southern District of New York

SECURITIES AND EXCHANGE COMMISSION, APPELLEE

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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

No. 74-1510

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff-Appellee,

v.

MIDLAND EQUITY CORPORATION,

Defendant,

and

JAMES JOSEPH HAMMARTH,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of New York

BRIEF OF THE SECURITIES AND EXCHANGE COMMISSION, APPELLEE

COUNTERSTATEMENT OF THE ISSUES PRESENTED

1. Where a corporation is registered as a broker and dealer in securities with the Securities and Exchange Commission under Section 15(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78o(b), and is required by Section 17(a) of that Act, 15 U.S.C. 78q(a), to permit the Commission to inspect its books and records, enabling the Commission to determine whether it has conducted its business in accordance with

the law, may the corporation refuse to permit the Commission to inspect its books and records, because it failed to pay its yearly assessment to the Securities Investor Protection Corporation and under Section 10(a) of the Securities Investor Protection Act of 1970, 15 U.S.C 78jjj(a), it may not lawfully "engage in business as a broker or dealer"?

2. Where a man serving as the sole director and as president, vice-president, secretary and treasurer of a corporation which is registered with the Securities and Exchange Commission as a broker and dealer in securities has refused to permit the Securities and Exchange Commission to inspect the corporation's books and records, in violation of the inspection provisions of Section 17(a) of the Securities Exchange Act of 1934, 15 U.S.C. 78g(a), but claims that he resigned these positions and sold all the outstanding stock of the corporation, which had been owned by his wife, before the Commission brought an action to enjoin the broker-dealer's refusal to permit inspection, was it an abuse of discretion for the district court preliminarily to enjoin him from further violation of the inspection provisions and to direct him to permit inspection of the corporate books and records?

COUNTERSTATEMENT OF THE CASE

On January 24, 1974, the United States District Court for the Southern District of New York, Lee P. Gagliardi, J., in an enforcement action brought by the Securities and Exchange Commission, entered an order (Supp. App. 1a-2a)^{1/} preliminarily enjoining Midland Equity Corporation ("Midland"), a registered broker and dealer in securities (Supp. App. 3a), and James Joseph Hammarth, shown in the Commission's records to be the sole officer and sole director of Midland (ibid.), from refusing to permit the Commission to inspect Midland's books and records or those of any other registered broker-dealer of which Mr. Hammarth may become a principal or controlling person, and directing Mr. Hammarth and Midland to permit an inspection of Midland's books and records by the Commission's staff (Supp. App. 1a-2a). Mr. Hammarth has taken this appeal from that order.

The Regulatory Framework

Section 15(a) of the Securities Exchange Act, 15 U.S.C. 78o(a), prohibits a broker or dealer in securities (other than one whose business is exclusively intrastate) from utilizing the mails or any means or instrumentality of interstate commerce to effect securities transactions, unless the broker-dealer is registered with the Commission pursuant to Section 15(b) of the Act, 15 U.S.C. 78o(b). Pursuant to Section 15(b)(1), 15

^{1/} The Commission was not given the opportunity to designate contents of the Appendix, as required by Rule 30(b) of the Federal Rules of Appellate Procedure. The Commission has reproduced certain documents from the record in a Supplemental Appendix annexed to this Brief. "Supp. App. ____" refers to pages of the Supplemental Appendix. "Br. ____" refers to pages of Mr. Hammarth's brief. "A ____" refers to pages of the Appendix to that brief.

U.S.C. 78o(b)(1), a broker-dealer may register by filing an application with the Commission containing information that the Commission has prescribed by rule.

In order that the Commission may monitor compliance with the securities laws and rules and regulations thereunder, the statute provides that so long as a broker-dealer is registered with the Commission, it is, among other things, required pursuant to Section 17(a) of that Act, 15 U.S.C. 78q(a), properly to maintain

"such accounts, . . . books, and other records . . . as the Commission by its rules and regulations may prescribe as necessary or appropriate in the public interest or for the protection of investors." 2/

And under Section 17(a) "[s]uch accounts, . . . books, and other records" are subject

"at any time . . . to such reasonable periodic, special, or other examinations by examiners or other representatives of the Commission as the Commission may deem necessary or appropriate in the public interest or for the protection of investors."

Consistent with its duty to protect investors the Commission has promulgated rules concerning the financial responsibility and orderly operation of broker-dealers. These rules deal, inter alia, with minimum net capital levels required to be maintained, Rule 15c3-1, 17 CFR 240.15c3-1, the maintenance and preservation of books and records, Rules 17a-3 and 17a-4, 17 CFR 240.17a-3 and 240.17a-4, and an "early warning system" designed to give the Commission prompt notice if a

2/ The rules adopted by the Commission with respect to record-keeping by brokers and dealers are set forth at 17 CFR 240.17a-1, et seq.

broker-dealer is not in compliance with these rules, Rule 17a-11, 17 CFR 240.17a-11.

If a company that is registered with the Commission as a broker-dealer is no longer engaged in business as such, or intends to terminate its business as a broker-dealer, the statute provides that it may voluntarily withdraw its registration, "upon such terms and conditions as the Commission may deem necessary in the public interest or for the protection of investors," by filing a written notice of withdrawal with the Commission. Section 15(b)(6) of the Securities Exchange Act, 15 U.S.C. 78o(b)(6). Generally, a notice of withdrawal, which must be filed on a prescribed form, will become effective in sixty days or such shorter period as the Commission may permit. See Rule 15b6-1, 17 CFR 240.15b6-1.^{3/} Section 15(b)(6) further provides for the entry of an order by the Commission cancelling the registration of any firm that the Commission finds has "ceased to do business as a broker-dealer."

Statement of Facts

On May 2, 1969, Midland Equity Corporation filed an application for registration as a broker and dealer in securities with the Securities and Exchange Commission (Supp. App. 3a), and on May 15, 1969, its registration became effective (Supp. App. 5a). At that time, Mr. Hammarth served as Midland's President, Vice-President, Secretary, and Treasurer,

^{3/} If prior to the date the notice of withdrawal becomes effective the Commission should institute administrative proceedings pursuant to Section 15(b)(5), 15 U.S.C. 78o(b)(5), to determine whether remedial action, such as revocation of registration, is appropriate, the voluntary withdrawal will not become effective unless and until the Commission should permit it to become effective. See Rule 15b6-1(b), 17 CFR 240.15b6-1(b).

as well as its sole director, ^{4/} and his wife, Marcia H. Hammarth, was the sole stockholder of the company (Supp. App. 3a; A 17). Thereafter, in February and March 1972, Mr. Hammarth executed documents filed with the Commission in his continuing capacity as President of Midland (Supp. App. 6a and 7a). No document has ever been filed with the Commission indicating that any person other than Mr. Hammarth has ever been an officer or director of Midland since it registered with the Commission, or that any person other than his wife has ever owned stock in that corporation, although the Commission's rules require that a registered broker-dealer must report changes in the status of its officers and directors and changes in stock ownership. ^{5/} In fact, Mr. Hammarth has conceded that he continued in control of Midland at least until February 15, 1973. ^{6/}

^{4/} The application also designates Mr. Hammarth as the individual to whom notice of any Commission administrative proceeding should be given (Supp. App. 5a).

^{5/} Rule 15b3-1, 17 CFR 240.15b3-1, requires that a registered broker-dealer must report changes in the information contained in its application for registration. This would include changes in its officers and directors and changes in stock ownership. See form BD, 17 CFR 249.501. Portions of this form, as executed by Midland, are annexed to this brief (Supp. App. 3a-4a).

^{6/} In the "Affidavit of Appearance" that Mr. Hammarth filed in the court below on July 3, 1973, he states (Affidavit, ¶ 20) that he sought to liquidate the assets of Midland "on behalf of the stockholders" [sic], that he "accomplished this on February 15, 1973 and resigned . . . [his] position as officer and director after the transfer had been accomplished." He asserts (Affidavit ¶ 21): "I am not now, nor have I been since February 15, 1973 an employee, director or principle [sic] of Midland Equity Corporation."

While Mr. Hammarth was admittedly still in control of Midland, on October 23, 1972, the Commission's New York Regional Office received a letter from the National Association of Securities Dealers ("NASD") informing the Commission that Midland had failed to inform the NASD that Midland was having financial difficulties (Supp. App. 9a).^{7/} Accordingly, on October 25, 1972, two of the Commission's securities compliance examiners went to Midland's address, as listed by Midland in the Commission's official files, in order to conduct an examination of Midland's books and records (A 25-27; Supp. App. 9a-10a). Although the Commission's examiners originally encountered some difficulty in locating Midland's office (A 26; Supp. App. 9a), on the next day (A 27; Supp. App. 10a) they found Mr. Hammarth, identified themselves, and asked to examine Midland's books and records (A 27; Supp. App. 10a). Mr. Hammarth refused to permit examination of the books and records. Instead, Mr. Hammarth stated that Midland was no longer a broker-dealer subject to the Commission's jurisdiction because Midland had failed to pay its

^{7/} The NASD is the only national securities association registered with the Commission pursuant to Section 15A of the Securities Exchange Act, 15 U.S.C. 78o-3. Subject to supervision by the Commission, it has substantial self-regulatory powers over its members, broker-dealers who conduct business in the nation's over-the-counter markets. Under Rule 17a-11, 17 CFR 240.17a-11, a broker-dealer is required to give notice to the Commission and to the NASD (if it is a member of that association) when it is not in compliance with the Commission's rules relating to net capital and books and records.

1972 assessment to the Securities Investor Protection Corporation ("SIPC") (A 29; Supp. App. 11a).^{8/} Mr. Hammarth produced a letter from SIPC (A 9) to the effect that the assessment had not been paid. In view of Mr. Hammarth's position, the examiners then left the office without having been given access to Midland's books and records and without making any further demand. (A 30; Supp. App. 11a.) Inquiry of the NASD indicated that it had information suggesting that Midland was in violation of the Commission's net capital rule, supra p. 4 (Supp. App. 13a). The Commission's request to examine Midland's books and records was thereafter renewed by telephone calls to Mr. Hammarth (A 34-35; Supp. App. 13a) and by letter (Supp. App. 16a). These requests were ignored by Midland and Mr. Hammarth.

On June 12, 1973, the Commission instituted this action.

On June 21, 1973, at a hearing on the Commission's motion for a preliminary injunction, Mr. Hammarth raised the defense that Midland

^{8/} Pursuant to Section 3(a)(2)(A) of the Securities Investor Protection Act of 1970, 15 U.S.C. 78ccc(a)(2)(A), with some exceptions not relevant here, registered brokers and dealers are members of the Securities Investor Protection Corporation, which was established under that Act to advance funds to pay the claims of customers of broker-dealers who have failed. As members they are required, pursuant to Section 4(c) of that Act, 15 U.S.C. 78ddd(c), to pay assessments which serve to fund the corporation. And under Section 10(a) of that Act, 15 U.S.C. 78jjj(a), if a member fails to pay an assessment or to cure its failure promptly after notice:

"It shall be unlawful for such member, unless specifically authorized by the Commission, to engage in business as a broker or dealer."

was no longer subject to Commission inspection because of its failure to pay its 1972 SIPC assessment (A 32). He also claimed that he could not turn over Midland's books and records to the Commission because control of Midland had been transferred to one Joseph P. Goggins (A 16-17).

Judge Gagliardi, on December 7, 1973, filed a memorandum decision (A 3-7) in which he found "both of these contentions equally untenable (A 5). He found that Midland had never filed a notice of withdrawal of its registration in accordance with Section 15(b)(6) and Rule 15b6-1 thereunder (A 3).^{9/} With respect to the asserted sale of Midland, Judge Gagliardi stated (A 6):

"... Hammarth indicated that he was not willing to assist the Commission in locating Goggins and through him the books and records of Midland. Hammarth's attitude in response to questions concerning the purported sale can only be described as evasive and casts substantial doubt upon the bona fides of the sale. At the time of the sale Hammarth had violated and was continuing to violate the provisions of Section 17(a)."

Accordingly, on January 24, 1974, the order under review (Supp. App. 1a-2a) was entered.

^{9/} Nor has any order ever been entered by the Commission cancelling Midland's registration under Section 15(b)(6) or revoking its registration under Section 15(b)(5).

ARGUMENT

IN VIEW OF MR. HAMMARTH'S FAILURE TO COMPLY WITH REQUIREMENTS OF THE SECURITIES EXCHANGE ACT THE COURT BELOW PROPERLY GRANTED THE PRELIMINARY RELIEF SOUGHT BY THE COMMISSION.

It is well established that entry of an injunction pursuant to Section 21(e) of the Securities Exchange Act, 15 U.S.C. 78u(e), is appropriate where there is a reasonable likelihood of future violations, and that this likelihood may be inferred from past violations. See, e.g., Securities and Exchange Commission v. Manor Nursing Centers, Inc., 458 F. 2d 1082, 1100 (C.A. 2, 1972); cf. Securities and Exchange Commission v. Culpepper, 270 F. 2d 241, 249-250 (C.A. 2, 1959); Securities and Exchange Commission v. Okin, 139 F. 2d 87, 88 (C.A. 2, 1943). And cf. United States v. Parke, Davis & Co., 362 U.S. 29, 47-49 (1960). Furthermore, where, as here, the Commission has sought only preliminary relief its burden of proof is necessarily reduced; all that is required is that the Commission present "a strong prima facie case to justify the discretionary issuance of the interlocutory restraint." Securities and Exchange Commission v. Boren, 283 F. 2d 312, 313 (C.A. 2, 1960); cf. Hamilton Watch Co. v. Benrus Watch Co., 206 F. 2d 738, 740 (C.A. 2, 1953). Moreover, the burden is upon the party seeking to overturn a district court's decision to show that the court abused its discretion, and this burden has repeatedly been held to be a heavy one.^{10/} It is especially heavy in a Commission

^{10/} Securities and Exchange Commission v. Manor Nursing Centers, Inc., 458 F. 2d 1082, 1100 (C.A. 2, 1972); Securities and Exchange Commission v. Culpepper, 270 F. 2d 241, 250 (C.A. 2, 1959); cf. United States v. W. T. Grant Co., 345 U.S. 629, 633 (1953).

Commission enforcement action where "the standards of the public interest not the requirements of private litigation, measure the propriety and need for injunctive relief. . . ." ^{11/}

1. Mr. Hammarth Has Aided and Abetted Midland's Violation of Section 17(a) of the Securities Exchange Act.

If, as we contend, Midland was a registered broker-dealer when Mr. Hammarth refused to permit Commission examiners to inspect its books and records, it does not seem open to serious dispute that Midland violated Section 17(a) of the Securities Exchange Act and Rule 17a-4 thereunder ^{12/} and that Mr. Hammarth aided and abetted these violations. ^{13/} Mr. Hammarth does not deny that he caused Midland to be registered with the Commission as a broker and dealer in securities

^{11/} Securities and Exchange Commission v. Culpepper, supra, 270 F. 2d at 250, quoting from Hecht Co. v. Bowles, 321 U.S. 321, 331 (1944). And cf. Mitchell v. Pidcock, 299 F. 2d 281, 287 (C.A. 5, 1962).

^{12/} Mr. Hammarth raises procedural objections to the entry of the injunction as it applies to Midland, asserting that service upon it was defective and that Midland had not been represented by counsel before the district court (Br. 6-7). Assuming these arguments had merit, the propriety of the injunction as applied to Midland is not before this Court. Mr. Hammarth has appealed solely in his individual capacity and Midland has taken no appeal.

^{13/} Mr. Hammarth argues (Br. 21-24) that he was not personally registered with the Commission as a broker-dealer and that he owned no stock in Midland. Nevertheless, it is well established that an officer or director of a broker-dealer firm may be enjoined based upon his role in aiding and abetting the firm's violation. See, e.g., Securities and Exchange Commission v. Barraco, 438 F. 2d 97, 99-100 (C.A. 10, 1971); Gross v. Securities and Exchange Commission, 418 F. 2d 103, 107 (C.A. 2, 1969). Cf. Securities and Exchange Commission v. North American Research & Development Corp., 424 F. 2d 63, 81 (C.A. 2, 1970).

and that Midland's registration has never been withdrawn or cancelled pursuant to Section 15(b)(6) of the Act. Instead, Mr. Hammarth's argument (Br. 11-12) is essentially that Midland's failure to pay its annual assessment to the Securities Investor Protection Corporation has relieved it of any further obligation to comply with the requirements of the Securities Exchange Act applicable to registered brokers and dealers.

Because Midland may not lawfully "engage in business as a broker or dealer," by virtue of Section 10(a) of the Securities Investor Protection Act (emphasis added), Mr. Hammarth contends that Midland is no longer registered as a broker and dealer in securities. As the district court found (A 5): "This argument is clearly without merit." "Registration" and "engag[ing] in business" are discrete concepts. A company that is registered with the Commission is merely permitted to conduct business as a broker-dealer if it is otherwise lawful for it to do so. Midland was informed of this distinction in the letter sent to Midland by the Commission on June 26, 1969 (Supp. App. 5a), which advised Midland that its registration had become effective. The letter expressly noted:

"Many states have laws with which brokers and dealers must comply before they may lawfully transact business in these states. Registration with the Commission does not mean that you may transact business in those states without complying with such laws."

Similarly, Midland's registration with the Commission did not mean that it might conduct business without compliance with otherwise applicable federal law, including the provisions of the subsequently-enacted Securities Investor Protection Act.

If Mr. Hammarth's theory were adopted, a broker-dealer could unilaterally relieve itself of the responsibilities imposed by the Securities Exchange Act merely by refusing to pay the assessment under the Securities Investor Protection Act. This would permit it to evade the statutory procedures for voluntary withdrawal under Section 15(b)(6) of the Securities Exchange Act, pursuant to which the Commission has the right to impose terms and conditions upon a voluntary withdrawal. See M. G. Davis v. Cohen, 256 F. Supp. 128 (S.D. N.Y., 1966), affirmed on other grounds, 369 F. 2d 360 (C.A. 2, 1966); Peoples Securities Co. v. Securities and Exchange Commission, 289 F. 2d 268, 274-275 (C.A. 5), certiorari denied, 363 U.S. 889 (1961); Blaise D'Antoni & Associates, Inc. v. Securities and Exchange Commission, 289 F. 2d 276 (C.A. 5, 1961).

Moreover, the last sentence of Section 15(b)(6) of the Securities Exchange Act expressly provides for cancellation of the registration of any broker or dealer that the Commission finds "has ceased to do business as a broker or dealer." Under that provision the registration of a broker-dealer continues effective unless and until the Commission has made the appropriate finding and issued an order of cancellation. The very provision of the Securities Investor Protection Act upon which Mr. Hammarth relies--Section 10(a)--supports this conclusion. Under its terms, a registered broker-dealer may be "specifically authorized by the Commission" to continue to transact business even after it has failed to pay an assessment. See n. 8, supra. The plain implication of this provision is that a firm that has failed to pay its assessment continues to be subject to Commission oversight. If Midland might lawfully deny access to its books and records because it did not pay the assessment, the Commission would be unable to determine whether Midland

has ceased business as a broker-dealer, even though such a determination is necessary for it to decide whether cancellation of Midland's registration pursuant to Section 15(b)(6) of the Securities Exchange Act is required (if the business has ceased) or to decide whether an enforcement action for violation of Section 10(a) of the Securities Investor Protection Act against Midland would be appropriate (if it should appear ^{14/} that Midland's business as a broker or dealer has not been ended).

^{14/} Mr. Hammarth also cites the portion of Section 17(a) which states that books and records "shall be subject at any time or from time to time to such reasonable . . . examinations . . . as the Commission may deem necessary or appropriate" (Emphasis added.) He argues that no violation occurred since he believes his objections to inspection were "reasonable." (Br. 16-17.) As we have shown, however, his objections were not reasonable. In any event, the statutory term, "reasonable," unambiguously refers to the nature of the Commission's inspection, and not to the merits of any objection a broker-dealer might raise.

Mr. Hammarth also argues (Br. 18) that the district court erred in finding violations of Rule 17a-4 since "[t]here has been no argument that the books have not been maintained or preserved or are not intact" and "[t]here has been no argument that the books are not in an easily accessible place." Rule 17a-4 requires, inter alia, that the books and records be preserved "in an easily accessible place." And they must be maintained for required periods whether or not the firm continues in business as a broker-dealer, Rule 17a-4(g). Since it is the object of the rule to provide the Commission with prompt access to the records, the rule is violated when prompt access is denied to a Commission examiner. Cf. Fontaine v. Securities and Exchange Commission, 259 F. Supp. 880, 885 (D. Puerto Rico, 1966): "The Court cannot permit . . . [a registered broker-dealer] unilaterally to limit the scope of the SEC's inquiry to determine whether violations have occurred, by denying the SEC access to the very books and records most pertinent to that inquiry."

2. Entry of the Preliminary Injunction Against Mr. Hammarth Was a Valid Exercise of Discretion.

The order entered by the district court (Supp. App. 1a-2a) preliminarily enjoins Mr. Hammarth from violations of Section 17(a) and Rule 17a-4 with respect to Midland or any other registered broker-dealer of which Mr. Hammarth may become a principal or controlling person. Mr. Hammarth appears to argue (Br. 30-31) that an injunction granted to the Commission must be limited to the specific activities alleged in the complaint. But this restrictive interpretation of the district court's authority to enjoin violations is contrary to the Supreme Court's repeated admonition that the securities legislation is to be construed "flexibly to effectuate its remedial purposes."^{15/}

Thus, in Securities and Exchange Commission v. Manor Nursing Centers, Inc., supra, 458 F. 2d at 1102, an action involving violation of the Securities Exchange Act, this Court stated:

"The principles which we believe to be controlling in regard to the appropriate breadth of injunctive relief are those expressed in NLRB v. Express Publishing Co., 312 U.S. 426 (1941). See Hillsborough Investment Corporation v. Securities and Exchange Commission, 276 F. 2d 665, 667 (1st Cir., 1960). In Express Publishing the Supreme Court said: 'A federal court has broad power to restrain acts which are of the same type or

^{15/} Affiliated Ute Citizens of Utah v. United States, 406 U.S. 128, 151 (1972); Securities and Exchange Commission v. Capital Gains Research Bureau, Inc., 375 U.S. 180, 195 (1963). Cf., e.g., Superintendent of Insurance of New York v. Bankers Life & Cas. Co., 404 U.S. 6, 12 (1971); Tcherepnin v. Knight, 389 U.S. 332, 336 (1967); Securities and Exchange Commission v. United Benefit Life Ins. Co., 387 U.S. 202 (1967); Securities and Exchange Commission v. C. M. Joiner Leasing Corp., 320 U.S. 344, 350-351 (1943).

class as unlawful acts which the court has found to have been committed or whose commission in the future, unless enjoined, may fairly be anticipated from the defendant's conduct in the past.' 312 U.S. at 435." 16/

It was equally lawful here for the district court broadly to enjoin Mr. Hammarth from all violations similar to those in which he was shown to have participated, especially in view of Mr. Hammarth's purported resignation as the sole officer and director of Midland in the face of a Commission inquiry, and his continued assertion that he had done no wrong. 17/

The injunction also required Mr. Hammarth and Midland Equity to permit an inspection of books and records of Midland by the Commission. Mr. Hammarth argues (Br. 28-29) that he is no longer in possession

16/ Mr. Hammarth (Br. 30-21) repeatedly refers to the injunction as a "punishment." This assertion may be compared with the Supreme Court's characterization of injunctive relief under the securities laws as a "mild prophylactic." Securities and Exchange Commission v. Capital Gains Research Bureau, Inc., *supra*, 375 U.S. at 193. An injunction requires only that a defendant obey provisions of the law that he was already obliged to obey. Mitchell v. Piddock, 299 F. 2d 281, 287 (C.A. 5, 1962). *Cf.* Securities and Exchange Commission v. Jan-Dal Oil and Gas, Inc., 433 F. 2d 304, 306 (C.A. 10, 1970), where the court of appeals reversed the dissolution of an injunction, holding that a showing by appellants in that case that the injunction constituted ". . . a continuing embarrassment in their present business relationships . . . [was] not enough."

17/ Securities and Exchange Commission v. Koenig, 469 F. 2d 198, 202 (C.A. 2, 1972); Securities and Exchange Commission v. MacElvain, 417 F. 2d 1134, 1137 (C.A. 5, 1970); *cf.* Walling v. Helmerick & Payne, Inc., 323 U.S. 37, 43 (1944).

or control of Midland Equity, and for that reason compliance with the injunction is impossible. He also states (Br. 22) that he has no responsibility to the Commission to locate the books or the present owners of Midland.

While Mr. Hammarth did not convince the district court that the sale of stock to one Joseph Goggins was bona fide, the defense of impossibility may, of course, be raised in defense of any contempt action which may be brought. Maggio v. Zeitz, 333 U.S. 56 (1948); Brotherhood of Loc. Fire & Eng. v. Bangor & Aroostook R. Co., 380 F. 2d 570, 581 (C.A. D.C., 1967). The further availability of that defense, however, has no bearing on the propriety of the preliminary injunction.

This is not a case where a guiltless former employee is unfairly being required to aid the Commission in obtaining the books and records of his former employer. Mr. Hammarth refused access to the Commission when he was indisputably in control of Midland and rejected or ignored renewals of the Commission's request for access. It was not until after this action was brought to compel access by the Commission that Mr. Hammarth claimed he had resigned and had transferred his wife's shares to a third party. Thus, the district judge cannot be said to have erred in expressing skepticism both as to the authenticity of the sale of Midland to a Mr. Goggins and as to Mr. Hammarth's professed inability to aid in the production of Midland's books and records. ^{18/}

^{18/} Cf. Joseph v. Donover Company, 261 F. 2d 812, 824 (C.A. 9, 1958):

"Irrespective of the fact there was conflicting evidence, we point out that in this Circuit (as in

The court acted well within its discretion in ordering Mr. Hammarth to assist the Commission in obtaining access to the books and records of Midland.

CONCLUSION

For the foregoing reasons, the order of the district court should be affirmed in all respects.

Respectfully submitted,

LAWRENCE E. NERHEIM
General Counsel

DAVID FERBER
Solicitor

RICHARD E. NATHAN
Assistant General Counsel

MARTIN S. BERGLAS
Attorney

Securities and Exchange Commission
500 North Capitol Street, N.W.
Washington, D.C. 20549

July 1974

18/ (continued)

others) the rule is that the trier of fact is at liberty within bounds of reason to reject entirely the uncontradicted testimony of a witness which does not produce conviction in his mind of the witness' testimony. This would be particularly true when the testimony comes from an interested party rather than a disinterested witness" (second emphasis added).

SUPPLEMENTAL APPENDIX

	<u>Page</u>
Order of Preliminary Injunction	1a
Excerpts from Securities and Exchange Commission File No. 8-13743-1, Midland Equity Corporation, Placed in Evi- dence as Commission's Exhibit No. 1	3a
Affidavits Attached to the Complaint in this Action	8a



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

-against-

MIDLAND EQUITY CORPORATION
JAMES JOSEPH HAMMARTH

Defendants.

U.S. DISTRICT COURT
FILED
JAN 24 1974
S.D. OF N.Y.

73 Civil 2617 (LPG).

ORDER OF PRELIMINARY
INJUNCTION

This action having come on before the Court, the Honorable Lee P. Gagliardi, District Judge, presiding, and an evidentiary hearing having been held and a memorandum decision, containing findings pursuant to Rule 52 of the Rules of Civil Procedure for the United States District Courts, having been filed on December 6, 1973, it is hereby

ORDERED, that defendants Midland Equity Corporation, James Joseph Hammarth, their officers, nominees, agents, servants, employees, attorneys and those persons in active concert or participation with them and each of them, be and they hereby are preliminarily enjoined from:

- (1) Directly or indirectly refusing to permit an inspection by examiners or other representatives of the plaintiff, Commission, of such accounts, correspondence, memoranda, papers, books, and other records, and such reports, as the plaintiff, Commission, by its rules and regulations

may prescribe as necessary or appropriate in the public interest or for the protection of investors, while and at a time when defendant Midland Equity Corporation (or any other registered broker-dealer of which James Joseph Hammarth may become a principal or controlling person) is registered as a broker-dealer pursuant to Section 15 of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. 78o, as required by Section 17(a) of the Exchange Act, 15 U.S.C. 78q(a) and Rule 17a-4 promulgated thereunder, 17 C.F.R. 240.17a-4; and

IT IS FURTHER ORDERED that defendants Midland Equity Corporation, James Joseph Hammarth, their officers, nominees, agents, servants, employees, attorneys and those persons in active concert or participation with them and each of them shall permit an inspection of the books and records of Midland Equity Corporation by the staff of the plaintiff, Commission in an easily accessible place as required by Section 17(a) of the Exchange Act, 15 U.S.C. 78q(a) and Rule 17a-4, 17 C.F.R. 240.17a-4 promulgated thereunder; and

IT IS FURTHER ORDERED that this Court shall retain jurisdiction over this matter for all purposes.

Dated: New York, New York
~~December 24~~, 1974
JANUARY

s/ Lee P. Magliardi
UNITED STATES DISTRICT JUDGE

Schedule A of FORM BD

(Answers in response to ITEM 12(c) of FORM BD.)

I. Full name of Applicant or Registrant exactly as stated in Item 2 of Form BD:
Midland Equity Corporation

II. Name under which business is conducted if different:

File No. 8-		IRS Empl. Ident. No.			
SEC USE					
Status	S.P.C.O.	Rel.	D.S. Subj. 00	Trans. Code	Ch. Seq. AZ
Doc. Seq. Number			Date		State Code

III. Complete and mark appropriate columns for (a) officers, directors and persons with similar status or functions and (b) any other person who is directly or indirectly the beneficial owner of authorized shares of any class of equity security of applicant or registrant. Place an asterisk (*) after the name of the person for whom a change in title, status or stock ownership is being reported. Place a double asterisk (**) after the names of persons which are ADDED to those furnished in the most recent previous filing.

FULL NAME			RELATIONSHIP		SEC USE	SOCIAL SECURITY NUMBER	% of OWNERSHIP					CLASS	SEC USE
Last	First	Middle	BEGINNING DATE Mo. Yr.	TITLE OR STATUS			From 0 To 10	Above 10 To 25	Above 25 To 50	Above 50 To 75	Above 75 To 100		
Hammarth	James	Joseph	11 67	V.P.	01	059-24-9022	x						
Hammarth	James	Joseph	4 69	Pres.	02	059-24-9022	x						
Hammarth	James	Joseph	4 69	Treas.	03	059-24-9022	x						
Hammarth	James	Joseph	4 69	Sec.	04	059-24-9022	x						
Hammarth	James	Joseph	4 69	Director	05	059-24-9022	x						
Hammarth	Marcia	Honeyer	11 67	Stockholder	06	014-30-3296					x	Common	
					07								
					08								
					09								
					10								
					11								
					12								
					13								
					14								
					15								
					16								

IV. List below names reported in the most recent previous filing pursuant to this Item which are DELETED hereby:

Last	FULL NAME First Middle	ENDING DATE Mo. Yr.	SOCIAL SECURITY NUMBER	Date as stated in ITEM 9 of FORM BD accompanying this Schedule.

RECD-S.E.C.

MAY 2 1969

If any item on this page is amended, you must answer in full all other items on this page and file with a completed and executed page one.

FORM BD(Revised: 9-1-68)
Page 1.**APPLICATION FOR REGISTRATION AS A BROKER-DEALER OR
TO AMEND SUCH AN APPLICATION UNDER THE SECURITIES
EXCHANGE ACT OF 1934**

SECURITIES AND EXCHANGE COMMISSION • WASHINGTON, D.C. 20549

(Read instruction sheet before preparing Form. Please print or type)

1. (a) If this is an APPLICATION for registration, check here, ☐ and complete all items in full.
(b) If this is an AMENDMENT to an Application, check here, ☒ and specify below all parts which are amended.

Item(s) 5 of Page 1 of Form BD Schedule A _____ Schedule B _____
Item(s) _____ of Page 2 of Form BD
Item(s) _____ of Page 3 of Form BD Schedule C _____ Schedule D _____ Schedule E _____

2. Full name of Applicant or Registrant: (If individual, state last, first, middle name)

IRS Empl. Ident. No.

MIDLAND EQUITY CORP

3. Name under which business is conducted, if different:

n/i

4. If name of business is hereby amended, state previous name here:

n/i

5. Address of principal place of business: (Do not use P.O. Box Number)

160 Broadway New York City New York 10038
No. and Street City State ZIP Code

6. Mailing Address, if different:

n/i

7. Is Applicant taking over all or substantially all of the assets and liabilities and continuing the business of a registered broker-dealer?

Yes ☐ No ☐

If "yes" state:

- (a) Date of succession: _____
(b) Date of the last Form X-17A-5 report pursuant to Rule 17a-5
under the Securities Exchange Act filed by the predecessor: _____
(c) Full name and IRS Emp. Ident. No. of predecessor: _____

8. Applicant or Registrant consents that the notice of any proceeding before the Commission in connection with its application for or registration as a broker-dealer may be given by sending notice by registered or certified mail or confirmed telegram to the person named below, at the address given.

HARRIMAN James J.
(Last name) (First name) (Middle name)
52 Clark St.
(Number and street)
Brooklyn Heights N.Y. 11201
(City) (State) (ZIP Code)

9. EXECUTION: The Applicant or Registrant submitting this Form and its attachments and the person by whom it is executed represent hereby that all information contained therein is true, current and complete. It is understood that all required items and Schedules are considered integral parts of this form and that the submission of any amendment represents that all unamended items and Schedules remain true, current and complete as previously submitted.

Dated the 17 day of September 19 69Midland Equity Corp
(Name of Corporation, Partnership or other organization)James J. Harriman
(Manual signature of Sole Proprietor, General Partner,
Managing Agent, or Principal Officer)President
(Title)

ATTENTION—Intentional misstatements or omissions of facts constitute Federal Criminal Violations. (See 18 U.S.C. 1001 and 15 U.S.C. 78ff (a))

(All items on this page must be answered in full.)

SEC-S.E.C.



CORRECTED COPY
SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D. C. 20549

JUN 26 1969

MIDLAND EQUITY CORPORATION
200 Park Ave., Suite 303E
New York, New York 10017
File No. 8-13743

-C

Re: File Number
Effective: MAY 15 1969

Registrant:

The effective date of your registration with this Commission as a broker and/or dealer, pursuant to Section 15(b) of the Securities Exchange Act of 1934, is shown above.

Many states have laws with which brokers and dealers must comply before they may lawfully transact business in those states. Registration with this Commission does not mean that you may transact business in those states without complying with such laws.

Again we direct your attention to the General Rules and Regulations promulgated under the Securities Exchange Act. We call particular attention to Rule 17a-5, a copy of which is enclosed for your ready reference. Please note that reports of financial condition required by this rule must be filed with the appropriate regional office of the Commission. Reports of financial condition of brokers and dealers who do not reside in the United States must be filed with the Securities and Exchange Commission, Washington, D. C. 20549. The report filed with your application for registration does not constitute a filing pursuant to Rule 17a-5.

Very truly yours,

Henrietta H. Gandy
HENRIETTA H. GANDY, Chief
Section of Broker-Dealer and
Investment Adviser Registration

Enclosure

L-926 1-66

Midland Equity Corp.

160 BROADWAY
NEW YORK CITY, N. Y. 10038

14 February 1972

Securities & Exchange Commission
Federal Plaza
New York City 10077

Gentlemen:

I respectfully request a 30 day extension of time to March 16, 1972 in which to file the annual certified report for Midland Equity Corp. as of the close of business 31 December 1971.

This additional time is required by our auditor who requires more confirmations from various customers to complete his report.

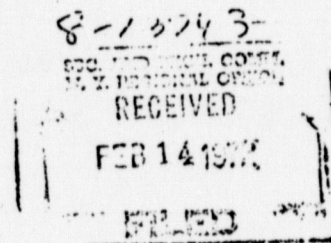
Our firm is in compliance with the net capital provisions of the Commission and our books are up to date.

This annual report will definitely be filed on or before the date of 16 March 1972.

Your cooperation is appreciated.

James J. Hannarth

James J. Hannarth
President



8-13743-1

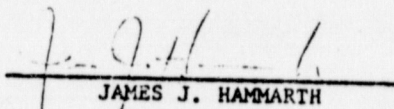
RECEIVED
N. Y. REGIONAL OFFICE

MAR 9 1972

FILED

I, JAMES J. HAMMARTH, being duly sworn do depose and say that I am President of Midland Equity Corp., that I have examined the appended answers to the financial questionnaire of Midland Equity Corp. as of December 31, 1971, and to the best of my knowledge and belief, they are true and correct.

Further, that neither the firm nor the officers and directors therein had any proprietary interest in any account classified in said answers to financial questionnaire solely as that of a customer.

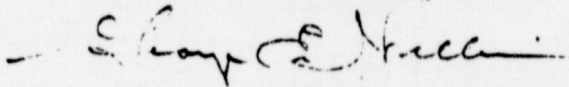

JAMES J. HAMMARTH

STATE OF NEW YORK

COUNTY OF NEW YORK

Subscribed and sworn to before me

this 2 day of Mar, 1972.



GEORGE E. WILLIAMS
NOTARY PUBLIC, State of New York
No. 30-9681305
Qualified in Nassau County
Certificate filed with New York County Clerk
Commission Expires March 30, 1973

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION : 73 Civil Action
Plaintiff, : File No. 2617 (LPG)

-against-

MIDLAND EQUITY CORPORATION
JAMES JOSEPH HAMMARTH

Defendants.

AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

GEORGE C. APPOLDT, being duly sworn, deposes and says:

1. I am a securities compliance examiner on the staff of the United States Securities and Exchange Commission ("Commission") in its New York Regional Office and have been so employed at all dates hereinafter mentioned.

2. I make this affidavit in support of the motion by the Commission for a Temporary Restraining Order and Orders of Preliminary and Permanent Injunction restraining and enjoining the defendants from further violations of the visitation and inspection provision of the federal securities laws, specifically Section 17(a) of the Securities Act of 1934 ("Exchange Act"), as amended, 15 U.S.C. 78q(a) and Rule 17a-4 promulgated thereunder, 17 C.F.R. 240.17a-4.

3. In the course of my official duties, I was assigned to and participated in a private investigation to determine whether the defendants have violated the bookkeeping and net capital provisions of the federal securities laws. I make this affidavit upon information and belief based upon information contained in the official files of the Commission and statements made to me by an officer of Midland Equity Corporation ("Midland").

DEFENDANTS

4. Midland was incorporated under the laws of the State of New York on November 21, 1967 and Midland's registration with the Commission became effective on May 15, 1969. Midland's place of business is located at 160 Broadway, New York, New York.

5. James Joseph Hammarth ("Hammarth") is the president, secretary and treasurer of Midland and has been such at all times herein relevant. He resides at 52 Clark Street, Brooklyn, New York 11201.

REFUSAL TO PERMIT INSPECTION

6. On October 23, 1973, this office received a letter from the National Association of Securities Dealers, Inc. ("NASD") informing this office that Midland has failed to inform that association of the firm's precarious financial condition as is required by Rule 17a-11, 17 C.F.R. 240.17a-11, promulgated by the Commission pursuant to Section 17(a) of the Exchange Act, 15 U.S.C. 78q(a). 1/

7. On October 25, 1972, Robert Green, also a compliance examiner employed at the New York Regional Office and I went to 160 Broadway, New York, New York to inspect the books and records of Midland. After consulting the directory on the main floor of the building, we went to the room listed (1102) and discovered that the door was locked and there was no answer. Further, there was a name on the door other than Midland.

1/ Rule 17a-11 basically requires a registered broker-dealer to provide speedy notice to the proper regulatory agency when the broker-dealer finds itself in violation of the bookkeeping and/or net capital rules.

8. On the same day, Mr. Green and I went to the offices of Martin Bach, C.F.A., 50 Broadway, New York, New York, who had certified the last 17a-5 report 2/ which was submitted by Midland. Mr. Bach informed us that Midland now shared offices with the law firm in Room 910 at the same address. Mr. Green and I returned to 160 Broadway, New York, New York and proceeded to Room 910. The door was locked and we received no answer when we knocked.

9. On October 26, 1972, Mr. Green and I again went to 160 Broadway, New York, New York and proceeded to Room 910. When we arrived we found the door ajar and we entered. We asked to see Mr. Hammarth. A man standing in the office said that if we would tell him what we wanted, maybe Hammarth could be reached. We identified ourselves as employees of the Securities and Exchange Commission and indicated that we wanted to inspect the books and records of Midland. Whereupon, the man who we now took to be Hammarth said in substance, "I wouldn't show them to the NASD and I won't show them to you because I am no longer registered as a broker-dealer under the NASD or SEC rules." Subsequent information received by the Commission confirmed that the man was, in fact, defendant Hammarth (see affidavit of Michael T. Gregg, para. 6).

2/ Rule 17a-5, 17 C.F.R. 240.17a-5, requires that every broker-dealer file a report of financial condition certified by independent accountants on a yearly basis.

10. I asked Hammarth what led him to that conclusion and he produced a letter from the Securities Investor Protection Corporation ("S.I.P.C.") which indicated that Midland had failed to pay its S.I.P.C. assessment for 1972 and Hammarth said that this meant he was no longer a broker-dealer.

11. I asked if Midland was currently doing business as a broker-dealer and Hammarth replied no. Whereupon, I requested that Hammarth provide the staff with a letter to that effect which he undertook to do. To date, a search of the files of the New York Regional Office indicates that no letter has been received. Moreover, a search of the files also reveals that defendant Midland is still registered with the Commission as a broker-dealer subject to the applicable rules promulgated by the Commission; and that at no time has any request for withdrawal of such registration been filed by or on behalf of defendant Midland.

12. I offered to provide Hammarth with copies of Form BDW (an official Commission form used by a registered broker-dealer to effect a withdrawal), explaining that this form was required, but Hammarth refused to accept them saying that he had them already.

13. Upon return to the office Mr. Green and I reported the foregoing to our superiors.

George C. Appoldt
GEORGE C. APPOLDT

Sworn to before me this
12th day of June, 1973.

Douglas P. Jacobs

NOTARY PUBLIC

DOUGLAS P. JACOBS
Notary Public, State of New York
No. 7057670
Qualified in Kings County
Commission Expires March 30, 1974

DOUGLAS P. JACOBS
Notary Public, State of New York
No. 7057670
Qualified in Kings County
Commission Expires March 30, 1974

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION	:	73 Civil Action
	:	File No. 2617 (LPG)
Plaintiff,	:	
-against-	:	<u>AFFIDAVIT</u>
MIDLAND EQUITY CORPORATION	:	
JAMES JOSEPH HAMMARTH	:	
Defendants.	:	

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

MICHAEL T. GREGG, being duly sworn, deposes and says:

1. I am an attorney on the staff of the United States Securities and Exchange Commission ("Commission"), in its New York Regional Office and have been so employed at all dates hereinafter mentioned.

2. I make this affidavit in support of the application by the Commission for a Temporary Restraining Order and Orders of Preliminary and Permanent Injunction restraining and enjoining the defendants from further violations of the inspection and visitation provision of the federal securities laws, specifically Section 17(a) of the Securities Exchange Act of 1934 ("Exchange Act"), as amended, 15 U.S.C. 78q(a) and Rule 17a-4 promulgated thereunder, 17 C.F.R. 240.17a-4.

3. In the course of my official duties, I was assigned to and participated in a private investigation to determine whether the defendants have violated the bookkeeping and net capital provisions of the securities laws. I make this affidavit based upon information contained in the official files of the Commission and statements made to me by defendant James Joseph Hammarth ("Hammarth").

DEFENDANTS

4. Midland was incorporated under the laws of the State of New York on November 21, 1967 and Midland's registration with the Commission became effective on May 15, 1969. Midland's place of business is located at 160 Broadway, New York, New York.

5. James Joseph Hammarth ("Hammarth") is the president, secretary and treasurer of Midland and has been such at all times herein relevant. He resides at 52 Clark Street, Brooklyn, New York 11201.

REFUSAL TO PERMIT INSPECTION

6. After receiving the report of compliance examiners, George C. Appoldt and Robert F. Green, I made a number of telephone calls to the offices of Midland. I also contacted the National Association of Securities Dealers ("NASD") and was informed that information in the possession of the NASD indicated that Midland was in violation of the Commission's Net Capital Rule, 17 C.F.R. 240.15c3-1. On December 15, 1972, Hammarth returned my call and refused to permit inspection of his books and records. From my conversation with him it was clear that Hammarth had previously refused access to Midland's books to Commission investigators and was now repeating the same arguments he had asserted on the prior occasion. A memorandum of that conversation was prepared immediately after the conversation and is attached hereto as Exhibit 1.

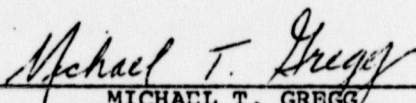
7. On January 31, 1973, under the direction of my superior, I prepared a letter which renewed the demand that

Midland permit inspection of its books and records. I caused this letter to be mailed to both the business address of Midland and home address of Hammarth. This letter is attached as Exhibit 2.

8. On or about May 17, 1973, I again telephoned the offices of Midland to inform Hammarth that authority for a court action was about to be requested. After identifying myself, I was told that Mr. Hammarth was not in. I left a message asking him to call me; but to date I have received no response.

9. Unless and until the Commission's staff is permitted to inspect the books and records of Midland, there can be no accurate estimate of the danger to the public interest in terms of both danger to funds and securities of public customers as well as funds and securities of other broker-dealers.

10. It is submitted that this affidavit, along with the affidavit of George C. Appoldt filed herewith, represent a clear and specific showing of good and sufficient reasons for proceeding by order to show cause, rather than by notice of motion, as required by Rule 9(c)(4) of General Rules of the United States District Courts, for the Southern and Eastern District of New York.


MICHAEL T. GREGG

Sworn to before me this
12 day of June, 1973.


NOTARY PUBLIC

ALAN M. RASHES
NOTARY PUBLIC, STATE OF NEW YORK
No. 41-8496650
QUALIFIED IN QUEENS COUNTY
COMMISSION EXPIRES MARCH 30, 1974

MEMORANDUM TO THE FILES

December 15, 1972

Subject: Midland Equity
9-13742

On the above date at 2:30 p.m. I received a telephone call from James J. Hammarth of Midland Equity, 160 Broadway, New York. He informed me that he was no longer a broker-dealer and the SEC has no jurisdiction over him. Further he will not present a trial balance and he will not allow access to his books and records by the staff of the SEC or any other regulatory agency.

I informed him that according to public records he is still registered with the Commission and it is necessary that he file a withdrawal form. He said it was not necessary and he had no intention of doing so. He suggested that I read the SIPC Act and that I do as I wished.

MICHAEL T. GREGG

EXHIBIT 1

January 31, 1973

Midland Equity Corporation
160 Broadway
New York, New York 10038

Attn: Mr. James Joseph Hammarth, President

Dear Mr. Hammarth:

The purpose of this letter is to renew this office's demand for access to the books and records of Midland Equity Corporation. This demand is made pursuant to inspection power granted to staff members of the Securities and Exchange Commission by the federal securities laws.

You are hereby advised that serious consequences can and will flow from your further refusal to cooperate with this office. The attorney assigned to this matter is Michael T. Clegg (264-1692).

Very truly yours,

WILLIAM D. MORAN
Acting Regional Administrator

By:

Thomas R. Beirne
Chief Attorney, Br. #3

cc.:
James Joseph Hammarth
52 Clark Street
Brooklyn, New York 11201

MTG:pm

EXHIBIT 2

16a

ONLY COPY AVAILABLE



OFFICE OF THE
GENERAL COUNSEL

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

July 16, 1974

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

A. Daniel Fusaro, Esq.
Clerk, United States Court of
Appeals for the Second Circuit
United States Courthouse
Foley Square
New York, New York 10007

Re: Securities and Exchange Commission, Plaintiff-Appellee v.
Midland Equity Corporation, Defendant, and James Joseph
Hammarth, Defendant-Appellant (C.A. 2, No. 74-1510)

Dear Mr. Fusaro:

Enclosed for filing with the Court in the above-captioned case are 25 copies of the brief of the Securities and Exchange Commission, Appellee. I have been informed by Mr. Brascia of your Office that Mr. Hammarth, who is appearing pro se, did not file his brief in acceptable form until June 21, 1974. The Commission's brief is therefore timely within the meaning of Rule 30(a) of the Federal Rules of Appellate Procedure.

I certify that I have today caused to be mailed two copies of the Commission's brief to James Joseph Hammarth, pro se, by depositing the copies in a duly franked government envelope in the United States mail.

Sincerely yours,

Martin S. Berglas
Martin S. Berglas
Attorney

Copy to: James Joseph Hammarth, Esq.
21 Davenport Avenue
New Rochelle, New York 10805